

FREEDOM COURT

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<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 NORTHERN DISTRICT OF ALABAMA</p> <p>3 MIDDLE DIVISION</p> <p>4</p> <p>5 CASE NUMBER: CV 2:06-CV-496-MEF</p> <p>6 U.S. BEVERAGE, INC.,</p> <p>7 Plaintiff(s),</p> <p>8 vs.</p> <p>9 JOHN BUSTER WALKER, II; TRIDENT</p> <p>10 MARKETING, INC; and A, B, C, and D,</p> <p>11 fictitious defendants whose names are</p> <p>12 otherwise unknown but which will be</p> <p>13 supplemented by amendment,</p> <p>14 Defendant(s).</p> <p>15</p> <p>16 STIPULATION</p> <p>17 IT IS STIPULATED AND AGREED</p> <p>18 by and between the parties through</p> <p>19 their respective counsel, that the</p> <p>20 deposition of JOHN B. WALKER, II may</p> <p>21 be taken before TAMIE J. STORY,</p> <p>22 Commissioner, at the offices of Raymond</p> <p>23 L. Jackson, Jr., 660 North College</p>	<p>1 INDEX</p> <p>2 EXAMINATION BY: PAGE NUMBER:</p> <p>3 Mr. Gill 8</p> <p>4</p> <p>5 EXHIBITS:</p> <p>6 Plaintiff's 1 - 37</p> <p>7 Minutes</p> <p>8 Plaintiff's 2 - 39</p> <p>9 Minutes</p> <p>10 Plaintiff's 3 - 41</p> <p>11 Purchase Agreement</p> <p>12 Plaintiff's 4 - 43</p> <p>13 Buy/Sell Agreement</p> <p>14 Plaintiff's 5 - 44</p> <p>15 Non-compete Agreement</p> <p>16 Plaintiff's 6 - 49</p> <p>17 Tax Records</p> <p>18 Plaintiff's 7 - 106</p> <p>19 Outline</p> <p>20 Plaintiff's 8 - 122</p> <p>21 Bylaws</p> <p>22 Plaintiff's 9 - 126</p> <p>23 Resolution</p>
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<p>1 Street, Suite D, Auburn, Alabama, on</p> <p>2 the 14th day of September, 2006.</p> <p>3 IT IS FURTHER STIPULATED AND</p> <p>4 AGREED that the signature to and the</p> <p>5 reading of the deposition by the witness</p> <p>6 is waived, the deposition to have the</p> <p>7 same force and effect as if full</p> <p>8 compliance had been had with all laws and</p> <p>9 rules of Court relating to the taking of</p> <p>10 depositions.</p> <p>11 IT IS FURTHER STIPULATED AND</p> <p>12 AGREED that it shall not be necessary for</p> <p>13 any objections to be made by counsel to</p> <p>14 any questions except as to form or</p> <p>15 leading questions, and that counsel for</p> <p>16 the parties may make objections and</p> <p>17 assign grounds at the time of the trial,</p> <p>18 or at the time said deposition is offered</p> <p>19 in evidence, or prior thereto.</p> <p>20 IT IS FURTHER STIPULATED AND</p> <p>21 AGREED that the notice of filing of the</p> <p>22 deposition by the Commissioner is</p> <p>23 waived.</p>	<p>1 EXHIBITS:</p> <p>2 Plaintiff's 10 - 139</p> <p>3 Advertisement</p> <p>4 Plaintiff's 11 - 151</p> <p>5 USPTO Search</p> <p>6 Plaintiff's 12 - 184</p> <p>7 Letter</p> <p>8 Plaintiff's 13 - 245</p> <p>9 E-mail</p> <p>10 Plaintiff's 14 - 256</p> <p>11 E-mail</p> <p>12 Plaintiff's 15 - 290</p> <p>13 Fax</p> <p>14 Plaintiff's 16 - 305</p> <p>15 Proposal</p> <p>16 Plaintiff's 17 - 323</p> <p>17 Letter</p> <p>18 Plaintiff's 18 - 341</p> <p>19 Letter</p> <p>20 Plaintiff's 19 - 358</p> <p>21 Letter</p> <p>22 Plaintiff's 20 - 399</p> <p>23 Statement</p>

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<p style="text-align: right;">Page 5</p> <p>1 EXHIBITS 2 Plaintiff's 21 - 409 3 Memo 4 Plaintiff's 22 - 417 5 Memo 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23</p>	<p style="text-align: right;">Page 7</p> <p>1 MR. RAYMOND L. JACKSON, JR., 2 Attorney at Law, 660 North College 3 Street, Suite D, Auburn, Alabama 36830, 4 appearing on behalf of the Defendants. 5 ALSO PRESENT: 6 Mr. Thomas Clark, Mr. Grady 7 Kittrell, and Mr. Clifton Tunnell. 8 9 ***** 10 11 I, TAMIE J. STORY, a Court 12 Reporter of Birmingham, Alabama, acting 13 as Commissioner, certify that on this 14 date, as provided by the Federal Rules 15 of Civil Procedure and the foregoing 16 stipulation of counsel, there came 17 before me at the offices of Raymond L. 18 Jackson, Jr., 660 North College Street, 19 Suite D, Auburn, Alabama, beginning at 20 9:00 a.m., JOHN B. WALKER, II, in the 21 above cause, for oral examination, 22 whereupon the following proceedings 23 were had:</p>
<p style="text-align: right;">Page 6</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 NORTHERN DISTRICT OF ALABAMA 3 MIDDLE DIVISION 4 5 CASE NUMBER: CV 2:06-CV-496-MEF 6 7 U.S. BEVERAGE, INC., 8 Plaintiff(s), 9 vs. 10 JOHN BUSTER WALKER, II; TRIDENT 11 MARKETING, INC; and A, B, C, and D, 12 fictitious defendants whose names are 13 otherwise unknown but which will be 14 supplemented by amendment, 15 Defendant(s). 16 BEFORE: 17 TAMIE J. STORY, Commissioner 18 APPEARANCES: 19 COPELAND, FRANCO, SCREWS & 20 GILL, P.A., by Mr. Nelson Gill, 444 21 South Perry Street, Montgomery, Alabama 22 36104, appearing on behalf of the 23 Plaintiff.</p>	<p style="text-align: right;">Page 8</p> <p>1 JOHN B. WALKER, II, 2 being first duly sworn, was examined 3 and testified as follows: 4 5 THE REPORTER: Usual 6 stipulations? 7 MR. GILL: Yes. 8 MR. JACKSON: Yes. 9 10 EXAMINATION BY MR. GILL: 11 Q. Can you state your full 12 name for me, please? 13 A. John Buster Walker, II. 14 Q. Mr. Walker, my name is 15 Nelson Gill, and we just met briefly 16 beforehand. And let me ask you first: 17 Have you ever had your deposition taken 18 before? 19 A. No, I have not. 20 Q. Well, just a brief 21 explanation of what's going to happen. 22 I'm going to ask you some questions and 23 if you don't understand, I want you to,</p>

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<p style="text-align: right;">Page 57</p> <p>1 A. Yes, and there were some 2 accounts in Florida too, I think. And 3 there may have been accounts in other 4 areas, I'm just not familiar with them. 5 Q. But we'll basically say 6 geographically around Alabama; I mean, 7 nearby Alabama at that point -- 8 A. Correct. 9 Q. -- is that a fair 10 statement? 11 A. I think so, yes. 12 Q. That was, of course, 13 partly why you went into the non- 14 compete, the two hundred mile radius of 15 Montgomery, Alabama; is that not true? 16 A. Say that question again. 17 Q. That's partly why y'all 18 would have entered into the non-compete 19 agreement with a two hundred mile 20 radius of Montgomery, Alabama; correct? 21 MR. JACKSON: Object to the 22 form. 23 A. I don't really understand</p>	<p style="text-align: right;">Page 59</p> <p>1 understand what you're asking me. 2 Q. That's fine. We'll move 3 on. 4 In your job as vice 5 president, is it fair to call it vice 6 president of sales, because I've seen 7 that on documents? 8 A. I think that's -- it was 9 called a couple of different things, 10 but I think it was titled as vice 11 president as far as the legal documents 12 go, I presume. 13 Q. You would rather me to 14 refer to it as vice president? 15 A. I don't know if I have a 16 preference. 17 Q. All right. Well, in your 18 job as vice president, which you told 19 me was related to your job as sales, 20 you had to travel around to the various 21 accounts, did you not -- 22 A. Yes, I did. 23 Q. -- in the Alabama area?</p>
<p style="text-align: right;">Page 58</p> <p>1 the -- 2 Q. Well, again, this is not -- 3 I mean, you just said their business is 4 primarily in Alabama and the nearby 5 areas. 6 A. Right. 7 Q. What I'm saying is that 8 that would have been one of the reasons 9 that the non-compete said two hundred 10 miles of Montgomery, Alabama? 11 A. I mean, they drafted the 12 non-compete. I can't tell you why they 13 wrote the language into the non- 14 compete. 15 Q. I'm not asking you to tell 16 me that. I'm asking you in general 17 logic, does that not seem like a fair 18 reason? 19 MR. JACKSON: Object to the 20 form. 21 A. I still don't quite 22 understand the question. I'm not 23 trying to be difficult, I simply don't</p>	<p style="text-align: right;">Page 60</p> <p>1 A. Among other areas (nodding 2 head). 3 Q. Well, do you remember any 4 other areas at that point? 5 A. Sure. I traveled quite 6 extensively through Alabama. I lived 7 in Texas, so I had to drive back and 8 forth every time I came back over here, 9 so I traveled through Louisiana, Texas, 10 Arkansas, Mississippi. 11 Q. Well, let's go back a 12 little bit. 13 A. Okay. 14 Q. You were living in Phenix 15 City when they purchased this company; 16 correct -- 17 A. Uh-huh (nodding head). 18 Q. -- because your company is 19 in Phenix City? 20 A. That's correct. 21 Q. And all of your business 22 and U.S. Beverage's business is nearby; 23 correct?</p>

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<p style="text-align: right;">Page 137</p> <p>1 couple of hours, but, I mean, you know 2 it's in their business. I understand 3 what you're trying to say in that you 4 say you're marketing it and selling it 5 on the computer, or the Internet, I 6 apologize, but this is specifically for 7 the product that U.S. Beverage is 8 selling, distributing, anything you 9 want to call it? 10 A. Specifically for? I mean, 11 you will have to -- I'm not quite sure 12 what you're saying there. I mean, 13 we're not coming after U.S. Beverage's 14 accounts with this product. 15 Q. It's your testimony that 16 you're not coming after U.S. Beverage's 17 accounts? 18 A. When this product was 19 created, it was not to sell to accounts 20 that U.S. Beverage was currently 21 selling to, it was to help them. 22 Q. It was designed to sell to 23 different accounts?</p>	<p style="text-align: right;">Page 139</p> <p>1 Q. And all the while, you're 2 still an officer and a shareholder of 3 U.S. Beverage? 4 A. That's correct. 5 6 (Whereupon, Plaintiff's Exhibit 10 7 was marked for identification and 8 same is attached hereto.) 9 10 Q. I'm going to mark this as 11 Plaintiff's Exhibit 10. Now, this is 12 actually a copy of a card? 13 A. Uh-huh (nodding head). 14 Q. I can show you the actual 15 card if you're not familiar with it. 16 A. I'm familiar with it. 17 Q. When did this come out? Do 18 you have any memory or recollection of 19 when this came out? 20 A. It was produced sometime in 21 2004. 22 Q. Would this have been the 23 first --</p>
<p style="text-align: right;">Page 138</p> <p>1 A. It was created -- we were 2 marketing a product via the Internet to 3 daycare centers, something that U.S. 4 Beverage could not or did not do at 5 that point in time. 6 Q. In the same location as 7 U.S. Beverage? 8 A. In the same location? 9 Q. In the same geographical 10 region as U.S. Beverage. 11 A. We were going to provide 12 services to U.S. Beverage in -- If 13 you'll look at Plaintiff's Exhibit 7, 14 it outlines a specific area where we 15 were going to provide those services to 16 U.S. Beverage. 17 Q. Right. So you would do it 18 for U.S. Beverage in their region for a 19 commission? 20 A. (Witness nodding head). 21 Q. And you were going to do it 22 elsewhere on your own; is that fair? 23 A. Correct, yes.</p>	<p style="text-align: right;">Page 140</p> <p>1 A. The first? 2 Q. -- Juice Alive thing that 3 came out or advertisement? 4 A. I believe that it was one 5 of the first, yes. There was another 6 one made in conjunction with this. 7 Q. What is that telephone 8 number at the bottom? 9 A. It's 1-800-337-5202. 10 Q. Is that your number? 11 A. Huh-uh, it's U.S. 12 Beverage's number. 13 Q. It's U.S. Beverage's 14 number? 15 A. That's correct. 16 Q. I may have jumped ahead a 17 little bit here, but we were talking 18 about Trident Marketing, and you were 19 talking about marketing a brand or 20 whatever. 21 A. Uh-huh (nodding head). 22 Q. I understand from this 23 lawsuit it's your contention that you</p>

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<p style="text-align: right;">Page 213</p> <p>1 A. Concerning Item Number 7?</p> <p>2 Q. No, on all seven of them.</p> <p>3 Did we not go through them?</p> <p>4 A. Yes, we did.</p> <p>5 Q. Can you think of any other</p> <p>6 reasons that you disagree with all of</p> <p>7 these?</p> <p>8 A. Can I think of any reasons</p> <p>9 why I disagree with Items 1 through 7?</p> <p>10 Q. One through 6, yeah.</p> <p>11 A. One through 6.</p> <p>12 Q. We will give you 7 if you</p> <p>13 say --</p> <p>14 A. I can't right now.</p> <p>15 Q. Did you agree to allow U.S.</p> <p>16 Beverage to buy out your shares?</p> <p>17 A. Did I agree? No, I did</p> <p>18 not.</p> <p>19 Q. You didn't. Did you</p> <p>20 continue negotiating with U.S.</p> <p>21 Beverage?</p> <p>22 A. Yes, we did.</p> <p>23 Q. Did you ever submit an</p>	<p style="text-align: right;">Page 215</p> <p>1 Q. Okay. Well, other than</p> <p>2 responses -- going back to my original</p> <p>3 question, other than -- I mean, this</p> <p>4 would clearly be a response, like you</p> <p>5 said.</p> <p>6 Other than responses, did</p> <p>7 you ever submit a letter to U.S.</p> <p>8 Beverage that says "I want to sell my</p> <p>9 shares of stock and I'm offering them</p> <p>10 up to the company"?</p> <p>11 A. I don't believe I did.</p> <p>12 Q. All right. And none of</p> <p>13 these negotiations ever resulted in</p> <p>14 your shares being purchased, did they?</p> <p>15 A. No, sir, they did not.</p> <p>16 MR. JACKSON: Can we take a</p> <p>17 brief break?</p> <p>18 MR. GILL: Sure.</p> <p>19</p> <p>20 (Whereupon, a brief recess was</p> <p>21 taken.)</p> <p>22</p> <p>23 Q. Moving on into 2005, let's</p>
<p style="text-align: right;">Page 214</p> <p>1 offer in writing to U.S. Beverage</p> <p>2 stating that you wanted to sell your</p> <p>3 shares?</p> <p>4 A. I think I -- I think that</p> <p>5 I -- I don't know if I've got my hands</p> <p>6 on it or not, but I think I can put my</p> <p>7 hands on an offer -- on a response that</p> <p>8 I made to Grady one time. He sent me</p> <p>9 an offer, and I believe I responded to</p> <p>10 him with basically just some different,</p> <p>11 you know, terms of the buyout.</p> <p>12 Q. Right. Well, look at the</p> <p>13 third page. I don't -- I'm not -- Do</p> <p>14 you think that's a response by you?</p> <p>15 A. Well, I mean, I didn't make</p> <p>16 all these marks on here.</p> <p>17 Q. Well, I don't know who made</p> <p>18 the marks.</p> <p>19 A. I mean, it looks like to me</p> <p>20 this is something that --</p> <p>21 Q. Well, do you think you made</p> <p>22 the typewritten writing?</p> <p>23 A. It appears that I did, yes.</p>	<p style="text-align: right;">Page 216</p> <p>1 say the spring of 2005, are you still</p> <p>2 continuing your job as vice president</p> <p>3 of sales or vice president in charge of</p> <p>4 sales?</p> <p>5 A. Yes, I think there's still</p> <p>6 -- I still continued to open accounts</p> <p>7 into 2005.</p> <p>8 Q. For U.S. Beverage; right?</p> <p>9 A. That's correct.</p> <p>10 Q. Trident Marketing is still</p> <p>11 going on alongside; right?</p> <p>12 A. At that point in time, in</p> <p>13 2005, U.S. Beverage was -- Trident</p> <p>14 Marketing was still in existence, if</p> <p>15 that's what you're asking me, or --</p> <p>16 Q. We're talking about the</p> <p>17 spring of 2005.</p> <p>18 A. Okay.</p> <p>19 Q. Trident Marketing is still</p> <p>20 selling Juice Alive; right?</p> <p>21 A. I don't know if we had sold</p> <p>22 and continued to sell the brand to any</p> <p>23 more daycares. I think we actually</p>

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<p style="text-align: right;">Page 349</p> <p>1 Q. And you're not doing 2 anything -- you're saying you have 3 nothing to do with Alabama at all? 4 A. I'm not selling to any 5 school systems in Alabama. 6 Q. Are you selling to anybody 7 in Alabama? 8 A. No, I haven't sold anything 9 to anybody in Alabama. 10 Q. What about -- Are you 11 having Dispensing Systems sell 12 something for you in Alabama? 13 MR. JACKSON: Object to the 14 form. Go ahead. 15 A. The question again. 16 Q. Are you having Dispensing 17 Systems sell anything for you in 18 Alabama? 19 A. I don't think they've sold 20 any accounts in Alabama that I'm aware 21 of. 22 Q. But you use Dispensing 23 Systems, don't you?</p>	<p style="text-align: right;">Page 351</p> <p>1 A. I think they have opened up 2 one account in Georgia. 3 Q. They as Dispensing Systems? 4 A. Correct, Dispensing 5 Systems. 6 Q. And when you say "they have 7 opened up one account," you mean that 8 you think that they have got one 9 account in which they purchase product 10 under the Juice Alive label -- 11 A. That would be correct. 12 Q. -- and distribute it to 13 somebody? 14 A. That would be correct. 15 Q. Has Dispensing Systems -- 16 whether or not they've actually got any 17 accounts, have they bid on anything in 18 Alabama using Juice Alive? 19 A. Yes, they have. 20 Q. They just weren't 21 successful? 22 A. It doesn't appear they 23 were, no.</p>
<p style="text-align: right;">Page 350</p> <p>1 MR. JACKSON: Object to the 2 form. 3 A. I'm sorry? 4 Q. You use Dispensing Systems? 5 A. I don't use them, they're a 6 distributor of ours. 7 Q. Well, I mean, if they're 8 distributing (sic) of yours -- I mean, 9 if they're a distributor -- 10 A. Uh-huh (nodding head). 11 Q. -- well, then, they're 12 doing something to benefit you, are 13 they not? 14 A. If they're buying product 15 and paying for it, that would be 16 benefitting Trident Marketing, correct. 17 Q. Are they doing that in 18 Alabama? 19 A. No, we have not sold to any 20 branch in Alabama, and I don't think 21 they've opened up any accounts in 22 Alabama. 23 Q. What about in Georgia?</p>	<p style="text-align: right;">Page 352</p> <p>1 Q. So Dispensing Systems -- 2 I'm calling that right? Dispensing 3 Systems is their name; right? 4 A. That's correct. 5 Q. They've attempted to sell 6 the Juice Alive label in Alabama -- 7 A. That's correct. 8 Q. -- which would be your 9 product? 10 A. Correct. 11 Q. And under your definition 12 of the non-compete agreement, you would 13 view that as not competing? 14 A. That's correct. 15 Q. Why is that? 16 A. Because again, Trident 17 Marketing is the company that goes out 18 and licenses, engages in licensing 19 agreements or distributor agreements 20 with other companies, and U.S. Beverage 21 does not and did not do that at the 22 time of our merger. 23 Q. When did you come up with</p>

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<p style="text-align: right;">Page 353</p> <p>1 that explanation?</p> <p>2 MR. JACKSON: Object to the</p> <p>3 form.</p> <p>4 A. I just think it's -- I</p> <p>5 mean, it's not an explanation, it's</p> <p>6 just the answer to your question.</p> <p>7 Q. Well, Dispensing Systems is</p> <p>8 at a school in Alabama bidding on the</p> <p>9 same product -- I mean, bidding to that</p> <p>10 school to attempt to sell the same</p> <p>11 product that U.S. Beverage is --</p> <p>12 A. I don't think that's</p> <p>13 correct.</p> <p>14 Q. -- or a similar product?</p> <p>15 A. A similar product.</p> <p>16 Q. A similar product --</p> <p>17 A. Uh-huh (nodding head).</p> <p>18 Q. -- with the Juice Alive</p> <p>19 label; Dispensing Systems has the Juice</p> <p>20 Alive label?</p> <p>21 A. Correct.</p> <p>22 Q. U.S. Beverage has something</p> <p>23 else at this point?</p>	<p style="text-align: right;">Page 355</p> <p>1 A. I give them an opportunity</p> <p>2 to go out there and compete in the</p> <p>3 market. It's up to them whether or not</p> <p>4 they are competitive.</p> <p>5 Q. That's not the question.</p> <p>6 The question is: You would want them</p> <p>7 to win the bid in Alabama because you</p> <p>8 would gain a benefit if they paid your</p> <p>9 bill?</p> <p>10 A. If they ordered product</p> <p>11 from us and paid our bill, yes, we</p> <p>12 would get a benefit.</p> <p>13 Q. So you would want them to</p> <p>14 win?</p> <p>15 MR. JACKSON: Object to the</p> <p>16 form.</p> <p>17 A. I would want them to engage</p> <p>18 in business that was profitable for</p> <p>19 them (nodding head).</p> <p>20 Q. I mean, we're just</p> <p>21 splitting hairs.</p> <p>22 A. If they bid a price that</p> <p>23 wasn't profitable and it lead to the</p>
<p style="text-align: right;">Page 354</p> <p>1 A. Correct.</p> <p>2 Q. And you don't view that as</p> <p>3 competition?</p> <p>4 A. I don't view that as me</p> <p>5 competing with U.S. Beverage, no.</p> <p>6 Q. You just view it as</p> <p>7 Dispensing Systems?</p> <p>8 A. Again, I don't view that as</p> <p>9 John Walker competing with U.S.</p> <p>10 Beverage.</p> <p>11 Q. But you would gain a</p> <p>12 benefit from that if they won, would</p> <p>13 you not?</p> <p>14 A. If they won the -- if they</p> <p>15 won the bid and ordered product and</p> <p>16 paid their bills to me, then at some</p> <p>17 point in time I would hope to get a</p> <p>18 benefit from it.</p> <p>19 Q. You'd get a benefit from</p> <p>20 that any time it happens; right?</p> <p>21 A. If it happens.</p> <p>22 Q. So you would want them to</p> <p>23 win the bid?</p>	<p style="text-align: right;">Page 356</p> <p>1 demise of the company, that wouldn't</p> <p>2 benefit me.</p> <p>3 Q. I understand that, but if</p> <p>4 they sell product to a school in</p> <p>5 Alabama which bears the Juice Alive</p> <p>6 label and they pay you for that -- the</p> <p>7 use of that in that school, that would</p> <p>8 benefit you, would it not?</p> <p>9 A. Again, if those certain</p> <p>10 conditions were met; if they bought it,</p> <p>11 paid for it, and I received the money</p> <p>12 for it, that would benefit Trident</p> <p>13 Marketing.</p> <p>14 Q. And you're the sole</p> <p>15 shareholder of Trident Marketing; is</p> <p>16 that correct?</p> <p>17 A. That is correct.</p> <p>18 Q. So you'd rather them win</p> <p>19 than lose?</p> <p>20 MR. JACKSON: Asked and</p> <p>21 answered. You've already asked him</p> <p>22 that three times.</p> <p>23 MR. GILL: Well, he won't</p>

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<p style="text-align: right;">Page 357</p> <p>1 answer it.</p> <p>2 MR. JACKSON: I think he</p> <p>3 has answered it.</p> <p>4 MR. GILL: He hasn't</p> <p>5 answered it.</p> <p>6 MR. JACKSON: He hasn't</p> <p>7 answered it the way you want him to</p> <p>8 answer it, but he's answered it.</p> <p>9 MR. GILL: The answer is as</p> <p>10 simple --</p> <p>11 Q. Would you like them to win</p> <p>12 the bid?</p> <p>13 A. I would like for Dispensing</p> <p>14 Systems to sell our product (nodding</p> <p>15 head).</p> <p>16 MR. GILL: Do you think</p> <p>17 that's an answer to that question?</p> <p>18 A. If it's through winning the</p> <p>19 bid or whatnot --</p> <p>20 MR. JACKSON: I think</p> <p>21 you've asked it three or four times</p> <p>22 now.</p> <p>23 MR. GILL: We'll leave it.</p>	<p style="text-align: right;">Page 359</p> <p>1 A. That appears -- that's the</p> <p>2 impression that I'm under.</p> <p>3 Q. Do you have any other</p> <p>4 grounds to sue Buddy Todd?</p> <p>5 A. Not that I can think of.</p> <p>6 MR. JACKSON: And Mr.</p> <p>7 Walker hasn't seen the other letter</p> <p>8 y'all produced to us yesterday.</p> <p>9 There's one where his signature -- that</p> <p>10 Buddy Todd signed that's similar to</p> <p>11 this (indicating).</p> <p>12 MR. GILL: That's true.</p> <p>13 MR. JACKSON: And I haven't</p> <p>14 had a chance to discuss it with the</p> <p>15 client yet, but just for clarification</p> <p>16 of the record, there is another letter.</p> <p>17 MR. GILL: I'll show him</p> <p>18 that letter.</p> <p>19 MR. JACKSON: Okay.</p> <p>20 Q. At the point you filed your</p> <p>21 complaint, this was your knowledge as</p> <p>22 to what Buddy Todd had done to you?</p> <p>23 A. That's correct.</p>
<p style="text-align: right;">Page 358</p> <p>1 That's fine. But, I mean, it's not</p> <p>2 that difficult.</p> <p>3 Q. Let's look at this letter,</p> <p>4 since we've already discussed it a</p> <p>5 couple of times.</p> <p>6</p> <p>7 (Whereupon, Plaintiff's Exhibit 19</p> <p>8 was marked for identification and</p> <p>9 same is attached hereto.)</p> <p>10</p> <p>11 Q. I'm going to let you look</p> <p>12 at this.</p> <p>13 A. Okay.</p> <p>14 Q. You keep referring to a</p> <p>15 Mississippi Child Nutrition Director</p> <p>16 letter.</p> <p>17 A. Uh-huh (nodding head).</p> <p>18 Q. Is this the letter that</p> <p>19 you've been referring to?</p> <p>20 A. It appears to be, yes.</p> <p>21 Q. And you claim that you're</p> <p>22 suing Buddy Todd because he sent this</p> <p>23 letter; he forwarded this letter?</p>	<p style="text-align: right;">Page 360</p> <p>1 Q. Let's look at this</p> <p>2 letter -- Well, I'll ask you one more</p> <p>3 question. You know Buddy Todd is an</p> <p>4 employee of U.S. Beverage, do you not?</p> <p>5 A. That's the impression that</p> <p>6 I'm under, yes.</p> <p>7 Q. You know he's not a</p> <p>8 shareholder?</p> <p>9 A. Right.</p> <p>10 Q. You know he's not an</p> <p>11 officer of the company?</p> <p>12 A. Right.</p> <p>13 Q. You know he's just an</p> <p>14 employee --</p> <p>15 A. Correct.</p> <p>16 Q. -- which would be different</p> <p>17 from your position as a shareholder and</p> <p>18 an officer?</p> <p>19 A. I do believe it's a</p> <p>20 different position, yes.</p> <p>21 Q. I mean, you agree that</p> <p>22 those are different?</p> <p>23 A. I do, yes.</p>

90 (Pages 357 to 360)